

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5143
OFFERED BY MR. INGLIS OF SOUTH CAROLINA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “H-Prize Act of 2006”.

3 SEC. 2. DEFINITIONS.

4 In this Act:

5 (1) ADMINISTERING AGENCY.—The term “ad-
6 ministering agency” means the entity with which the
7 Secretary enters into an agreement under section
8 3(c).

9 (2) DEPARTMENT.—The term “Department”
10 means the Department of Energy.

11 (3) SECRETARY.—The term “Secretary” means
12 the Secretary of Energy.

13 SEC. 3. PRIZE AUTHORITY.

14 (a) IN GENERAL.—The Secretary shall carry out a
15 program to competitively award cash prizes only in con-
16 formity with this Act to advance the research, develop-
17 ment, demonstration, and commercial application of hy-
18 drogen energy technologies.



1 (b) ADVERTISING AND SOLICITATION OF COMPETI-
2 TORS.—

3 (1) ADVERTISING.—The Secretary shall widely
4 advertise prize competitions to encourage broad par-
5 ticipation, including by individuals, universities (in-
6 cluding historically Black colleges and universities
7 and other minority serving institutions), and large
8 and small businesses (including businesses owned or
9 controlled by socially and economically disadvan-
10 tagged persons).

11 (2) ANNOUNCEMENT THROUGH FEDERAL REG-
12 ISTER NOTICE.—The Secretary shall announce each
13 prize competition by publishing a notice in the Fed-
14 eral Register. This notice shall include the subject of
15 the competition, the duration of the competition, the
16 eligibility requirements for participation in the com-
17 petition, the process for participants to register for
18 the competition, the amount of the prize, and the
19 criteria for awarding the prize.

20 (c) ADMINISTERING THE COMPETITIONS.—The Sec-
21 retary shall enter into an agreement with a private, non-
22 profit entity to administer the prize competitions, subject
23 to the provisions of this Act. The duties of the admin-
24 istering entity under the agreement shall include—



1 (1) advertising prize competitions and their re-
2 sults;

3 (2) raising funds from private entities and indi-
4 viduals to pay for administrative costs and to con-
5 tribute to cash prizes;

6 (3) working with the Secretary to develop the
7 criteria for selecting winners in prize competitions,
8 based on goals provided by the Secretary;

9 (4) determining, in consultation with the Sec-
10 retary, the appropriate amount for each prize to be
11 awarded under section 4(b)(3); and

12 (5) selecting judges in accordance with section
13 4(d), using criteria developed in consultation with
14 the Secretary.

15 (d) FUNDING SOURCES.—Prizes under this Act may
16 consist of Federal appropriated funds and funds provided
17 by the administering entity (including funds raised pursu-
18 ant to subsection (c)(2)) for such cash prizes. The Sec-
19 retary may accept funds from other Federal agencies for
20 such cash prizes. The Secretary may not give any special
21 consideration to any private sector entity or individual in
22 return for a donation to the administering entity.

23 (e) ANNOUNCEMENT OF PRIZES.—The Secretary
24 may not issue a notice required by subsection (b)(2) until
25 all the funds needed to pay out the announced amount



1 of the prize have been appropriated or committed in writ-
2 ing by the administering entity. The Secretary may in-
3 crease the amount of a prize after an initial announcement
4 is made under subsection (b)(2) if—

5 (1) notice of the increase is provided in the
6 same manner as the initial notice of the prize; and

7 (2) the funds needed to pay out the announced
8 amount of the increase have been appropriated or
9 committed in writing by the administering entity.

10 (f) SUNSET.—The authority to announce prize com-
11 petitions under this Act shall terminate on September 30,
12 2017.

13 **SEC. 4. PRIZE CATEGORIES.**

14 (a) CATEGORIES.—The Secretary shall establish
15 prizes for—

16 (1) advancements in components or systems re-
17 lated to—

18 (A) hydrogen production;

19 (B) hydrogen storage;

20 (C) hydrogen distribution; and

21 (D) hydrogen utilization;

22 (2) prototypes of hydrogen-powered vehicles or
23 other hydrogen-based products that best meet or ex-
24 ceed objective performance criteria, such as comple-
25 tion of a race over a certain distance or terrain or



1 generation of energy at certain levels of efficiency;
2 and

3 (3) transformational changes in technologies for
4 the distribution or production of hydrogen that meet
5 or exceed far-reaching objective criteria, which shall
6 include minimal carbon emissions and which may in-
7 clude cost criteria designed to facilitate the eventual
8 market success of a winning technology.

9 (b) AWARDS.—

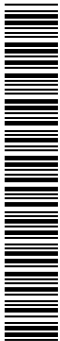
10 (1) ADVANCEMENTS.—To the extent permitted
11 under section 3(e), the prizes authorized under sub-
12 section (a)(1) shall be awarded biennially to the
13 most significant advance made in each of the four
14 subcategories described in subparagraphs (A)
15 through (D) of subsection (a)(1) since the submis-
16 sion deadline of the previous prize competition in the
17 same category under subsection (a)(1) or the date of
18 enactment of this Act, whichever is later. No one
19 such prize may exceed \$1,000,000. If less than
20 \$4,000,000 is available for a prize competition under
21 subsection (a)(1), the Secretary may omit one or
22 more subcategories, reduce the amount of the prizes,
23 or not hold a prize competition.

24 (2) PROTOTYPES.—To the extent permitted
25 under section 3(e), prizes authorized under sub-



1 section (a)(2) shall be awarded biennially in alter-
2 nate years from the prizes authorized under sub-
3 section (a)(1). The Secretary is authorized to award
4 up to one prize in this category in each 2-year pe-
5 riod. No such prize may exceed \$4,000,000. If no
6 registered participants meet the objective perform-
7 ance criteria established pursuant to subsection (c)
8 for a competition under this paragraph, the Sec-
9 retary shall not award a prize.

10 (3) TRANSFORMATIONAL TECHNOLOGIES.—To
11 the extent permitted under section 3(e), the Sec-
12 retary shall announce at least one prize competition
13 authorized under subsection (a)(3) as soon after the
14 date of enactment of this Act as is practicable. To
15 the extent permitted under section 3(e), the Sec-
16 retary may announce additional prize competitions
17 authorized under subsection (a)(3) as appropriate to
18 accelerate the development and adoption of hydrogen
19 technologies. A prize offered under this paragraph
20 shall be not less than \$10,000,000, paid to the win-
21 ner in a lump sum, and an additional amount paid
22 to the winner as a match for each dollar of private
23 funding raised by the winner for the hydrogen tech-
24 nology beginning on the date the winner was named.
25 The match shall be provided for 3 years after the



1 date the prize winner is named or until the full
2 amount of the prize has been paid out, whichever oc-
3 curs first. A prize winner may elect to have the
4 match amount paid to another entity that is con-
5 tinuing the development of the winning technology.
6 The Secretary shall announce the rules for receiving
7 the match in the notice required by section 3(b)(2).
8 The Secretary shall award a prize under this para-
9 graph only when a registered participant has met
10 the objective criteria established for the prize pursu-
11 ant to subsection (c) and announced pursuant to
12 section 3(b)(2). Not more than \$10,000,000 in Fed-
13 eral funds may be used for each prize award under
14 this paragraph. The administering entity shall seek
15 to raise \$40,000,000 toward each matching award
16 under this paragraph.

17 (c) CRITERIA.—In establishing the criteria required
18 by this Act, the Secretary shall consult with—

19 (1) the Department's Hydrogen Technical and
20 Fuel Cell Advisory Committee;

21 (2) other Federal agencies, including the Na-
22 tional Science Foundation; and

23 (3) private organizations, including professional
24 societies, industry associations, and the National



1 Academy of Sciences and the National Academy of
2 Engineering.

3 (d) JUDGES.—For each prize competition, the Sec-
4 retary shall assemble a panel of qualified judges to select
5 the winner or winners on the basis of the criteria estab-
6 lished under subsection (c). Judges for each prize competi-
7 tion shall include individuals from outside the Depart-
8 ment, including from the private sector. A judge may
9 not—

10 (1) have personal or financial interests in, or be
11 an employee, officer, director, or agent of, any entity
12 that is a registered participant in the prize competi-
13 tion for which he or she will serve as a judge; or

14 (2) have a familial or financial relationship with
15 an individual who is a registered participant in the
16 prize competition for which he or she will serve as
17 a judge.

18 **SEC. 5. ELIGIBILITY.**

19 To be eligible to win a prize under this Act, an indi-
20 vidual or entity—

21 (1) shall have complied with all the require-
22 ments in accordance with the Federal Register no-
23 tice required under section 3(b)(2);

24 (2) in the case of a private entity, shall be in-
25 corporated in and maintain a primary place of busi-



1 ness in the United States, and in the case of an in-
2 dividual, whether participating singly or in a group,
3 shall be a citizen of, or an alien lawfully admitted
4 for permanent residence in, the United States; and
5 (3) shall not be a Federal entity, a Federal em-
6 ployee acting within the scope of his employment, or
7 an employee of a national laboratory acting within
8 the scope of his employment.

9 **SEC. 6. INTELLECTUAL PROPERTY.**

10 The Federal Government shall not, by virtue of offer-
11 ing or awarding a prize under this Act, be entitled to any
12 intellectual property rights derived as a consequence of,
13 or direct relation to, the participation by a registered par-
14 ticipant in a competition authorized by this Act. This sec-
15 tion shall not be construed to prevent the Federal Govern-
16 ment from negotiating a license for the use of intellectual
17 property developed for a prize competition under this Act.

18 **SEC. 7. LIABILITY.**

19 (a) **WAIVER OF LIABILITY.**—Registered participants
20 shall be required to agree to assume any and all risks,
21 and waive claims against the Federal Government and its
22 related entities, except in the case of willful misconduct,
23 for, any injury, death, damage, or loss of property, rev-
24 enue, or profits, whether direct, indirect, or consequential,
25 arising from their participation in a competition under



1 this Act, whether such injury, death, damage, or loss
2 arises through negligence or otherwise. For the purposes
3 of this subsection, the term “related entity” means a con-
4 tractor or subcontractor at any tier, and a supplier, user,
5 customer, cooperating party, grantee, investigator, or
6 detailee.

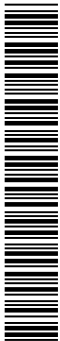
7 (b) LIABILITY INSURANCE.—

8 (1) REQUIREMENTS.—Registered participants
9 shall be required to obtain liability insurance or
10 demonstrate financial responsibility, in amounts de-
11 termined by the Secretary, for claims by—

12 (A) a third party for death, bodily injury,
13 or property damage or loss resulting from an
14 activity carried out in connection with participa-
15 tion in a competition under this Act; and

16 (B) the Federal Government for damage or
17 loss to Government property resulting from
18 such an activity.

19 (2) FEDERAL GOVERNMENT INSURED.—The
20 Federal Government shall be named as an additional
21 insured under a registered participant’s insurance
22 policy required under paragraph (1)(A), and reg-
23 istered participants shall be required to agree to in-
24 demnify the Federal Government against third party



1 claims for damages arising from or related to com-
2 petition activities.

3 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary for car-
6 rying out this Act \$11,000,000 for each of the fiscal years
7 2007 through 2016, of which no more than \$2,000,000
8 for any fiscal year may be used for administrative ex-
9 penses.

10 (b) CARRYOVER OF FUNDS.—Funds appropriated for
11 prize awards under this Act shall remain available until
12 expended, and may be transferred, reprogrammed, or ex-
13 pended for other purposes only after the expiration of 10
14 fiscal years after the fiscal year for which the funds were
15 originally appropriated. No provision in this Act permits
16 obligation or payment of funds in violation of section 1341
17 of title 31 of the United States Code (commonly referred
18 to as the Anti-Deficiency Act).

19 **SEC. 9. NONSUBSTITUTION.**

20 The programs created under this Act shall not be
21 considered a substitute for Federal research and develop-
22 ment programs.

